

Service Date: December 30, 19 82

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application of)	
MOUNTAIN STATES TELEPHONE AND)	
TELEGRAPH COMPANY, INC.,)	UTILITY DIVISION
GENERAL TELEPHONE OF THE NORTH-)	
WEST, INC., and NORTHWESTERN)	
TELEPHONE SYSTEMS, INC. To Adopt)	DOCKET NO. 82.6.37
Certain Depreciation Changes And)	
Certain Changes Pertaining to Station)	
Connections and Inside Wiring, AND IN)	ORDER NO. 4951b
THE MATTER of the Commission's)	
Investigation Into Detariffing Customer)	
Premises Equipment.)	

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BEFORE:

GORDON E. BOLLINGER, Chairman
JOHN B. DRISCOLL, Commissioner
HOWARD L. ELLIS, Commissioner
CLYDE JARVIS, Commissioner
THOMAS J. SCHNEIDER, Commissioner

FINDINGS OF FACT

PART A

GENERAL

1. On August 27, 1981, Northwestern Telephone Systems (NWTs) filed general rate case Docket No. 81.8.69. Included in the NWTs filing was request for certain changes pertaining to station connections and inside wiring.
2. On February 18, 1982, Mountain States Telephone and Telegraph Company (MBT) filed general rate case Docket No. 82.2.8. Included in the MBT filing was a proposal to extensively revise the provision of and charges for inside wiring.
3. On June 23, 1982, General Telephone of the Northwest (GTNW) filed general rate case Docket No. 82.6.39. Included in this filing were proposed changes to station connections/inside wiring as well as the grand fathering of customer premise

equipment (CPE) tariffs pursuant to the provisions of Federal Communications Commission (FCC) Docket No. 20828.

4. On June 8, 1982, the Commission initiated Docket No. 82. 6.37 for purposes of investigating revisions to the provision of station connections/ inside wiring, the deregulation of CPE, and the represcription of depreciation rates.

5. On September 1, 1982 MBT filed proposed tariff sheets (Exh. MB-7) which effectively grandfather the CPE tariffs to embedded equipment. On September 8, 1982, MBT filed a proposed sale plan (Exh. MB-8) applicable to certain embedded functional CPE. On November 15, 1982 MBT filed a proposed complex inside wiring plan (See TR. p. 260) which proposes revisions to the provision of complex inside wiring. On November 22, 1982, the Commission ruled that the substance of the three tariff filings referenced above would be considered and ruled upon through the course of this proceeding.

6. On October 26-29, 1982 a public hearing was held in Helena, Montana pursuant to Notice of Public Hearing issued on October 5, 1982.

7. On November 30; 1982 the Commission issued Order No. 4951 setting forth its Findings of Fact and Order with respect to the depreciation related issues in Docket No. 82.6.37. This subsequent order provides the Commission's Findings and Order with respect to CPE and inside wiring.

8. The Procedural Order in Docket No . 82.6.37 (June 8, 1982; revised July 6, 1982) provided for position statements and live hearing testimony in lieu of pre-filed direct and rebuttal testimony on the subjects of CPE and inside wiring. Position statements were filed by MBT, NWTs, GTNW, and the Montana Consumer Counsel (MCC).

PART B

CUSTOMER PREMISE EQUIPMENT

9. On October 30, 1981, the FCC issued a Memorandum Opinion and Order on Further Reconsideration in Docket No. 20828 -- the "Second Computer Inquiry" or

"Computer II. " Generally, the FCC action provides a bifurcation between new and embedded CPE. The provisions of Computer II deregulate new CPE effective January 1, 1983. Sales of new deregulated CPE by the Bell System can only occur through the auspices of a fully separated subsidiary (FSS). Computer II does not require FSS structures for nonBell System sales of new CPE nor does Computer II deregulate embedded CPE.

New CPE

10. MBT. Pursuant to Computer II, sales (or lease) of new CPE by the Bell System will be limited to the FSS entity -- American Bell, Inc. The Commission finds acceptable the content and structure of the MBT September 1, 1982 filing which grandfathers the CPE tariff (See Exh. MB-7 and TR. p. 240). MBT is directed to re-file the tariff sheets in conformance with the recently approved "ABC" tariffs. It should be noted that in the post-divestiture environment, MBT will be able to directly participate in deregulated CPE operations through a MBT-FSS. 11. NWTs and GTNW. NWTs and GTNW maintain that they should be allowed but not required to establish FSS entities for marketing deregulated new CPE (TR. pp. 293, 317).

12. The Commission finds no merit to the proposition resulting in regulated telephone utilities simultaneously offering regulated services and deregulated CPE. Such a structure would require allocations of common operating costs which are, for all practical purposes, beyond regulatory scrutiny and inevitably allow for regulated monopoly subsidization of unregulated competitive CPE operations.

13. The Commission finds that NWTs and GTNW are required to establish a FSS prior to entering into deregulated CPE operations. Both NWTs and GTNW are affiliated with a corporate structure that features existing FSS entities engaged in competitive CPE operations in Montana on a deregulated basis. (GTNW and NWTs response to Second Set of MPSC Data Requests, NTS-1 and GTNW-1.)

Embedded CPE

14. The Commission, in examining the nature of embedded CPE, has found two dichotomies. The first dichotomy recognizes the universal service, or lifeline, implications associated with single line telephone station equipment. The second dichotomy results from the anti-trust divestiture (Modified Final Judgment, US vs. AT&T) of the Bell operating companies from AT&T which distinguishes the MBT embedded CPE situation from that of GTNW and NWTs.

15. Single Line Telephone Station Equipment. The Single Line Telephone Station Equipment subset of embedded CPE is comprised of traditional, trim-line and princess sets with both rotary and touch-tone dialing mechanisms (See TR. p. 239). The Commission finds that these "Big Six" station instruments are an intricate component of the telephone lifeline and thus require regulatory scrutiny. Furthermore, the Commission also finds that embedded CPE designed specifically for the handicapped is lifeline-related and, therefore, is to be treated in the same manner as the Big Six. For purposes of this Order, references to the Big Six is to include all enhancements to single line telephone station equipment designed specifically for the handicapped .

16. MBT indicates that the Big Six is one subset of embedded CPE where the current market value exceeds net book value (TR. p. 282). GTNW estimates that the net book value approximates the market value (TR. p. 314). MBT indicated an intention to file a proposed sale plan during the first quarter of 1983 (TR. pp. 198, 206, 236-237). GTNW and NWTs do not indicate anticipated treatment of the Big Six, specifically, but both utilities indicate that embedded CPE, generally, should be handled on a utility management prerogative basis including sales at market value (See eg. TR. p. 303 and EXH. GT-7, pp. 3,4).

17. The Commission finds that the proper treatment of in-place embedded Big Six CPE entails a sale at a price of average net book value plus cost of sale. The Big Six customer is to be afforded three options. Option I is to return the set. Option II is to request a continued lease at the existing tariffed lease rate. Option III, by default, is to purchase the set. Inventories of embedded Big Six CPE as of December 31, 1982 are to be sold at market value, but not less than the average embedded cost of the inventory .

18. The period of time commencing with the issuance of this Order, through March 1, 1983, is to feature an intensive effort in informing the customers of the three Options. The sale of the Big Six is to commence on March 1, 1983 and feature an immediate flash cut transfer of title under two payment options -- a one-time payment of average net book value plus cost of sale or, by default, a monthly equivalent calculated over the ten remaining months of 1983 including interest of 14.5 percent which approximates the utilities' cost of equity.

19. Within 30 days of the issuance of this Order, MBT, NWTS and GTHW are directed to file, for each of the Big Six single line station equipment, including handicapped enhancements, in place and in inventory: 1) estimated embedded costs, 2) transaction costs, 3) the resulting sale price, and 4) its monthly equivalent (See eg. TR. p. 359). In lieu of testimony addressing warranty periods for each of the Big Six sold in-place and from inventory, the Commission finds the proper approach is to follow the parameters established by the California Commission (Decision 82-08-017, T R. p. 379). MBT, NWTS and GTNW are directed to establish warranties as follows. In-place equipment shall be warranted for a period of 90 days after sale. Equipment sold from inventory shall be warranted for a period of 180 days regardless of whether the equipment is new or refurbished. Finally, the Commission contemplates rate-making treatment with respect to the Big Six and, therefore, directs the utilities to develop an accounting mechanism for tracking the Big Six sales revenues and costs.

20. Other Embedded CPE-MBT. The only specific treatment proposed by MBT for embedded CPE is the Company's September 8th filing which proposes market prices for the sale of various residential functional telephone sets and adjunct dialers (See Exh. MB-8 and TR. pp. 241-244). MBT witness Mr. Hatzenbuehler testified that the motive in the sale of embedded functional sets was to minimize losses resulting from the negative disparity between the market value and embedded book value of this subset of embedded CPE (TR. pp. 243, 268).

21. In that the Modified Final Judgment provides for the transfer of embedded CPE at net book value on or before January 1, 1984, the Commission finds inappropriate the MBT proposal to sell the functional sets at a loss. In addition to rejecting the September 8th filing, the Commission finds that the sale of any embedded CPE by MBT shall be limited to the Big Six as specified above. All embedded CPE, with the exception of the Big Six is to remain tariffed on a grandfathered basis.

22. Other Embedded CPE -- NWTs and GTNW. As mentioned above, both NWTs and GTNW appear to anticipate a "management prerogative" treatment of embedded CPE. For example, cross-examination of NWTs witness Mr. Rog:

Q. Does your company intend on making a filing with the Commission once the sales price (for embedded CPE) has been determined?

A. At this time, no. You're talking about having the prices listed in the tariff?

Q. Yes.

A. No, not at this time.

Q. Does the Company intend on selling these items on a non-tariff basis?

A. That's correct.

Q. Is it your opinion, then, that the Computer II decision deregulated embedded terminal equipment?

A. Not per se.

Q. What did deregulate it?

A. Well, in my opinion, I think that the Company, if you will, can dispose of this CPE in the most equitable manner, which is both fair to the Company and the ratepayers.

23. The Commission accepts the thrust of the GTNW and NWTs positions and directs the detariffing of embedded CPE on March 1, 1983. The Commission anticipates no further rate-making treatment with respect to the March 1, 1983 deregulation of non-Big Six embedded CPE.

PART C

INSIDE WIRING

24. As referenced above, all three telephone utilities have filed proposed revisions to the manner in which inside wiring (intended to include station connections and jacks) is provided, charged, and/or booked . The Procedural Order Finding No. 9 identifies the issues to be resolved which include expensing of inside wiring and the sale and maintenance of new and embedded wiring.

Expensing of Inside Wiring

25. Order No. 4786b (Docket No. 80.12.100, September 18, 1981) authorized MBT to commence the expensing of connections on a flash cut basis. Although not authorized to do so, NWTs began a flash cut expensing on October 1, 1981 (TR. p. 294). GTNW, per FCC authority (Docket No. 79-105), commenced expensing station connections on a flash cut basis on October 1, 1981. (Docket No. 82.6.39, Exh. 3, p. 10.) The MCC recommends flash cut expensing, but only after a present value examination of the phase-in alternative (Position Statement, p. 1).

26. In that all three utilities, authorized or unauthorized, are expensing station connections on a flash cut basis, the Commission finds no reason to deviate from the existing conditions.

New Inside Wiring

27. There appears to be a general consensus on issues relating to new inside wiring -- primarily, that flash cut expensing of inside wiring should carry with it nontariffed compensatory charges for initial installation and ownership of new inside wiring in a competitive arena (NTS-4, pp. 2, 3; GT-6, pp. 2,3; MCC Position Statement, pp. 1,2). Recurring maintenance of the customer owned new inside wiring, also through a competitive offering, would feature charges under several payment options.

28. The Commission finds that the deregulation of new inside wiring, as proposed by NWTs and GTNW (NTS-4, p. 3 and GT-6, p. G), carries with it the obligation to establish a FSS. Similar to the marketing of new CPE on a deregulated basis, the Commission finds that GTNW and NWTs are precluded from deregulated new inside wiring operations (installation or maintenance) until such time a FSS is established. However, the Commission finds that potential service and work force disruptions warrants a transitional period. The transitional period is to be calendar year 1983. During the transitional period NWTs and GTNW are authorized to provide new inside wiring on a non-tariffed basis through fully compensatory time and material (T&M) charges. New inside wiring operations on and after January 1, 1984 will require FSS entities.

29. The Commission authorizes MBT to participate in the deregulated new inside wiring market through calendar year 1983 on a fully compensatory T&M basis. However, on and after January 1, 1984, this CPE-service-related-function is to be performed only through fully compensatory service contracts with the FSS -- American Bell, Inc. -- or a MBT-FSS. I

Embedded Inside Wiring

30. While the general consensus of the intervening parties is that existing customers should have the option to purchase embedded wiring (See eg. NTS-4, GT-6 and TR. p. 358), all parties generally agree that there is little motive for the purchase of embedded wiring (See eg. TR. p. 358).

31. The Commission accepts the position of the utilities -- the embedded wiring is to remain utility-owned.

32. MBT proposes to alter the existing maintenance rates by 1) eliminating the \$.45 per month extension rate and 2) providing two options for maintenance charges . Option I, by default, would entail a \$.45 per month per access line maintenance charge while Option II would entail a flat charge on a per occurrence basis (See Docket No. 82.2.8, Exh. 24, p. 15).

33. The testimony does not make clear whether the NWTs and GTNW proposed T&M basis for maintenance of new wiring is intended to apply to embedded, company-owned wiring.

34. The MCC recommends a flat charge (monthly or periodic) or T&M charge (Position Statement, p. 2) and generally endorses the rate proposals proffered by the utilities (TR. p. 356).

35. The Commission finds that implementation of T&M charges must be accompanied by an equivalent reduction in existing rates. In that neither NWTs or GTNW have submitted such proposal, the Commission finds that NWTs and GTNW shall continue to provide recurring maintenance of utility - owned embedded inside wiring under the existing rate structure.

36. The Commission finds merit in MBT's proposal to convert the embedded wiring maintenance charge from a per extension basis to a per access line basis, with an optional per visit charge. Such a structure would result in a commensurate reduction in rates (\$.45/month) for those

opting for alternative charges or for alternative vendors of maintenance service. The \$270,000 of net revenues resulting from implementation of the restructuring of embedded wiring maintenance charges (See Exh. MBT-9) shall be reflected in the residual pricing of exchange services resulting from Docket No. 82.11 .73. The Commission rejects the flat per visit rate option, however, and instead directs the company to implement an optional T&M rate schedule .

Complex Inside Wiring

37. Complex wiring, as opposed to simple single line inside wiring, serves as a connection between multi-line common control equipment and station equipment. Complex wiring is limited to within a single customer's premises or continuous property.

38. The Commission finds that new complex wiring in a deregulated environment can be provided by NWTs and GTNW only through a FSS. MBT can install new complex wiring only through fully compensatory service contracts with American Bell, Inc. As with simple wiring, however, calendar year 1983 is to feature a transitional period whereby NWTs, GTNW, and MBT can install complex wiring on a fully compensatory T&M basis. On and after January 1, 1984 the three utilities can provide complex wiring services only through FSS structures.

39. The Commission finds that the NWTs and GTNW embedded complex wiring shall be de-tariffed with its associated embedded CPE (See Finding No. 23) .

40. MBT, in its November 15, 1982 filing proposes revisions to embedded complex wiring (See TR. pp. 260-262). The thrust of the MBT proposal is to unbundle the complex wire element from embedded CPE rates and charges. The unbundled complex wire rate element is further unbundled to reflect the material wire and the wire maintenance. The wire maintenance component of the unbundled wire charge is eliminated and replaced with T&M charges as specified in the filing. The remaining material component of the wire charge is frozen at its existing level and reduced by 12.5 percent per year for the remaining eight years of the ten year amortization of Account 232. As an alternative to the declining embedded material charge, the customer may purchase the complex wire at net book value plus cost of sale. There is no anticipated revenue effect associated with the proposed embedded complex wiring plan (R.A. Remington, November 15, 1982).

41. The Commission accepts the MBT proposed embedded complex wiring plan and directs the company to re-file the associated tariffs in conjunction with Docket No. 82.11.73 .

PART D

CUSTOMER INFORMATION

42. This Order will obviously result in major changes to the traditional manner in which CPE and its associated premise wiring is provided. The Commission expects MBT, NWTs and GTNW to embark on a major effort in educating the customers. This effort shall at least include recurring billing inserts which clearly delineate payment options, warranties, and changes in the provision of new and embedded CPE and station connections. The customer information provided shall specifically include a reference to alternative vendors of deregulated CPE .

43. The customer information effort shall specifically identify and address the uniqueness of party-line station equipment in a deregulated CPE environment. With respect to party-line station equipment, within 30 days of the issuance of this Order, MBT, NWTs, and GTNW are directed to file proposed tariff sheets delineating rules and regulations for the interconnection of deregulated CPE to party-line access. Included in this filing is to be a tariffed rate for which the regulated utility is to provide services required to modify deregulated CPE for purposes of party-line access.

44. With respect to embedded inside wiring maintenance payment options, MBT is directed to provide customer information which sets forth the characteristics of inside wiring problems, repair and maintenance.

CONCLUSIONS OF LAW

1. Mountain States Telephone and Telegraph Company, Inc., General Telephone of the Northwest, Inc., and Northwestern Telephone Systems, Inc. are corporations providing telephone and other communications services within the state of Montana and as such are "public utilities" within the meaning of MCA § 69-3-101.

2. The Montana Public Service Commission properly exercises jurisdiction over these three companies' Montana operations pursuant to Title 69, Chapter 3, MCA.

ORDER

THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. MBT, NWTS, and GTNW are ordered to file Big Six sale plans as specified in Finding Nos. 15 through 19.

2. NWTS and GTNW are precluded from deregulated CPE operations prior to the establishment of FSS entities.

3. MBT, NWTS and GTNW are authorized to provide non-tariffed inside wiring on a fully compensatory T&M basis through December 31, 1983.

4. MBT, NWTS, and GTNW are precluded from deregulated inside wiring on and after January 1, 1984, except as specified herein.

5. MBT is ordered to file tariffs as specified in Finding Nos. 10 and 41.

6. MBT, NWTS and GTNW are ordered to file tariffs as specified in Finding No. 43.

7. MBT, GTNW, and NWTS are ordered to submit copies of informational billing inserts as specified in Finding Nos. 42 through 44.

8. All motions and objections made by the parties in this docket which were not ruled upon by the Commission at the hearing or earlier in this order are hereby denied.

DONE AND DATED this 27 day of December, 1982 by a vote of 5 –0

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

Gordon E. Bollinger, Chairman

John B. Driscoll, Commissioner

Howard L. Ellis, Commissioner

Clyde Jarvis, Commissioner

Thomas J. Schneider, Commissioner

ATTEST:

Iris Basta, Acting Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.